

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**IN RE GOOGLE PLAY STORE  
ANTITRUST LITIGATION**

No. 3:21-md-02981-JD

THIS DOCUMENT RELATES TO:

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
SANCTIONS**

*Epic Games Inc. v. Google LLC et al.*,  
Case No. 3:20-cv-05671-JD

Judge: Hon. James Donato

*In re Google Play Consumer Antitrust  
Litigation*, Case No. 3:20-cv-05761-JD

*State of Utah et al. v. Google LLC et al.*,  
Case No. 3:21-cv-05227-JD

Before the Court is the Motion for Sanctions filed by the Plaintiffs. The Court, having reviewed the Motion and accompanying memoranda, declarations and exhibits in support, any opposition thereto, the reply, the arguments of counsel, and good cause appearing, hereby **ORDERS** that the Motion is **GRANTED**. The Court finds that the sanction of an adverse inference jury instruction under Federal Rule of Civil Procedure Rule 37(e)(2) is appropriate to remedy Google's continuing intentional destruction of Google Chats. The Court will therefore instruct the jury that (1) Google had a discovery obligation to maintain Google Chats no later than August 13, 2020; (2) Google had a mechanism to do so; (3) Google failed to implement that mechanism; (4) Google automatically deleted relevant Google Chats for each custodian in this case; (5) this destruction prevented Plaintiffs and the jury from learning the contents of those Google Chats; and (6) the jury should assume that the information Google had destroyed would have supported Plaintiffs' claims against Google.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

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HONORABLE JAMES DONATO  
UNITED STATES DISTRICT JUDGE